



NEW YORK
VIENNA
LONDON
CHICAGO
HOUSTON
SYDNEY

LETTER MOTION VIA CM/ECF – Schedule A Redacted

Honorable Vernon S. Broderick
United States District Court
Southern District Court
Southern District of New York
40 Foley Square, Room 415
New York, New York 10017

APPLICATION GRANTED
SO ORDERED *Vern Brod*
VERNON S. BRODERICK
U.S.D.J. 03/14/22

March 11, 2022

Nicholas Paine
Of Counsel | Attorney at Law
Nicholas.paine@zeilerfloydzad.com
mobile: +1 917 882 4566

RE: Rinaldi v. SCA La Goutte 1:16-cv-01901 (VSB)

Dear Judge Broderick:

Our Firm represents Defendant/Counterclaim Plaintiffs SCA La Goutte D'Or and SAS Ch. & A. Prieur in the above referenced matter. In accordance with the Court's docket entry of January 21, 2022 (Dkt. 189), as well as the Court's Order extending the Redaction Request submission date to March 11, 2022 (Dkt. 209), La Goutte and Prieur hereby respectfully request that certain parts of the transcript of the January 21, 2022, conference (Dkt. 189) (the "Transcript") be redacted when published on the public docket.

The requested redactions to the Transcript, which are set out in **Schedule A** hereto (a redacted/marked copy of the Transcript can be provided upon the Court's request) (the "Redactions"), reference certain personal information as it relates to submissions regarding a witness' remote testimony at trial from France. Counsel for Plaintiff has indicated they have no objection to Schedule A being filed redacted/under seal in conjunction with this redaction request.

In accordance with this Court's instructions during the January 21, 2022, hearing, the Parties subsequently submitted filings regarding remote testimony at trial, including documents concerning the same personal information that is sought to be redacted in the Transcript now. (e.g. Dkts. 185 & 186). Those were filed redacted/filed under seal. *See id.* The request for

Zeller Floyd Zadkovich (US) LLP

215 Park Avenue South, 11th floor, New York, NY, 10003 USA

Zeiler Floyd Zadkovich (US) LLP is a limited liability partnership established in the State of New York, advising only on laws of the United States of America. Zeiler Floyd Zadkovich (US) LLP is a member firm of Zeiler Floyd Zadkovich (a Swiss Verein). Each member of the Swiss Verein is separately insured and practices law independently of other member firms.

The Swiss Verein does not provide any legal services.

ONE GLOBAL TEAM.
FOCUSED ON WHAT YOU DO.

zeilerfloydzad.com



ZEILER
FLOYD
ZADKOVICH

NEW YORK
VIENNA
LONDON
CHICAGO
HOUSTON
SYDNEY

redactions/sealing of the documents containing the personal information was subsequently granted by this Court. (Dkt. 187).

While there is a common law right to public access to judicial documents, that right is not absolute. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-120 (2d Cir. 2006). This presumption may be overcome “if a sufficiently compelling countervailing interest is demonstrated.” *Id.* at 120. Under certain circumstances, “the privacy interest of the person resisting disclosure can be sufficient to overcome the public right to access.” *U.S. v. King*, 10-cr-122 (JGK) 2021 WL 2196674, at *2 (S.D.N.Y. June 15, 2012). However, such exceptions, “should be based on a particularized showing of need, and any redactions would be required to be narrowly tailored to accomplish the overriding interest.” *Id.* (citations omitted).

Here, the Redactions concern information that is not known to the public. The Redactions do not concern public health or safety, do not involve a public entity or official, and are not at the heart of what the parties have asked. As such, any interest that the public would have in the Redactions is accordingly minimal.

Conversely, the right to maintain the confidentiality of personal information not known to the public falls well within the range of “higher value” that trumps hypothetical public interest in accessing the redactions in the Transcript. *See Gardner v. Newsday, Inc. (In re Newsday, Inc.)*, 895 F.2d 74, 79-80 (2d Cir. 1990) (stating that “[w]e have previously held that the privacy interest of innocent third parties … should weigh heavily in a court’s balancing equation”) (internal quotations omitted).

Further, the Transcript concerns a conference regarding the remote testimony of a witness from France, not a full trial on the merits. The Redactions do not relate to the underlying claims in this action but seek redaction of personal information of a witness. Moreover, as noted above, the Court has previously ordered documents that included the personal information remain redacted and sealed. The limited requests for redaction of the Transcript concern portions of the Transcript addressing the same information as those previously redacted and sealed documents.

As such, good cause exists to justify redacting the Transcript to preserve the confidentiality of personal information. The Redactions are narrowly tailored to protect confidential personal information pertaining to a witness in this action and to prevent the unauthorized dissemination

ONE GLOBAL TEAM.
FOCUSED ON WHAT YOU DO.



ZEILER
FLOYD
ZADKOVICH

NEW YORK
VIENNA
LONDON
CHICAGO
HOUSTON
SYDNEY

of personal data subject to Regulation (EU) 2016/679 (the “General Data Protection Regulation” or “GDPR”), as well as to protect the privacy of interest of the relevant witness. *See Allianz Global*, 2021 WL 211544, 8-cv-10364, 2021 WL 211544, at *2 (S.D.N.Y. Jan. 21, 2021). It is respectfully submitted that no interest will be prejudiced by the requested redactions. Indeed, the redactions do not contain information that concerns matters of public interest.

Wherefore, La Goutte and Prieur respectfully request that this Court issue an Order directing that the Transcript be redacted in accordance with the requested redactions attached as Schedule A hereto. Further, La Goutte and Prieur respectfully request that the Court order that only the redacted version of the Transcript be made available on the public docket.

We thank the Court for its consideration.

Best Regards,

/s/ Nicholas W. Paine
Nicholas W. Paine

CC: All counsel of record via CM/ECF

ONE GLOBAL TEAM.
FOCUSED ON WHAT YOU DO.